



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL- 9954-99-Region 10]

Washington State Department of Ecology Prohibition of Discharges of Vessel Sewage; Receipt of Petition and Preliminary Affirmative Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice – receipt of petition and preliminary affirmative determination.

SUMMARY: Notice is given that, pursuant Clean Water Act Section 312(f)(3), the Washington State Department of Ecology has determined that the protection and enhancement of the quality of the waters of Puget Sound requires greater environmental protection, and has petitioned the United States Environmental Protection Agency, Region 10, for a determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for those waters, so that the State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters. Washington State has proposed to establish a “No-Discharge Zone” (NDZ) for all marine waters of Washington State inward from the line between New Dungeness Lighthouse and the Discovery Island Lighthouse to the Canadian border, and fresh waters of Lake Washington, Lake Union, and connecting waters between and to Puget Sound.

The western boundary of the NDZ would be the exit of the Strait of Juan de Fuca near the entrance of Admiralty Inlet. This boundary is known and visible to vessel operators as it is the line between New Dungeness Lighthouse and Discovery Island Lighthouse. The northern boundary would be the border with Canada and heading south including all marine waters down to the south end of the south Sound and Hood Canal. The fresh waters of Lake Washington,

Union Bay, Montlake Cut, Portage Bay, Lake Union, Fremont Cut, the Lake Washington Ship Canal, and Salmon Bay (the connecting waters from Lake Washington to Puget Sound) would be included. For more information regarding the State's planned NDZ, please go to <http://www.ecy.wa.gov/programs/wq/nonpoint/CleanBoating/nodischargezone.html>.

Today's notice seeks public comment on EPA's tentative determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters subject to Washington's planned NDZ.

DATES: Comments regarding this tentative determination must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER.]

ADDRESSES: Submit your comments to the *Federal eRulemaking Portal*:

<http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Joel Salter, Oregon Operations Office, Water program coordinator, 805 SW Broadway, Suite 500, Portland OR, 97205; telephone number: (503) 326-2653; fax number: (503) 326-3399.; email address: salter.joel@epa.gov,

SUPPLEMENTARY INFORMATION:

Notice is given that the Washington State Department of Ecology has petitioned the United States Environmental Protection Agency (EPA), Region 10, pursuant to section 312(f)(3) of the Clean Water Act, 33 U.S.C. 1322, for a determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters of Puget Sound. As described in the State's petition, submitted to EPA on July 21, 2016, Ecology included in its application a certification that the protection and enhancement of the waters described in the petition require greater environmental protection than the applicable Federal standard along with pumpout facility information required by EPA regulations. See 40 CFR 140.4. Ecology also submitted supplemental information to EPA on October 14, 2016, regarding commercial vessel pumpout availability in Puget Sound. EPA's role under Section 312(f)(3) of the Clean Water Act is to determine whether adequate pumpout facilities are reasonably available, and EPA is seeking comments on this determination only.

Adequacy and Availability of Sewage Pumpout Facilities

Guidelines issued pursuant to the Clean Vessel Act for recreational vessels recommend one pumpout station for every 300-600 boats [Clean Vessel Act: Pumpout Station and Dump Station Technical Guidelines, Federal Register, Vol. 59, No. 47, March 10, 1994]. In its petition, the State described the recreational vessel population in Puget Sound and the pumpout facilities and mobile pumpout services that are available for use.

The State used two methods to develop a reasonable estimate of the recreational vessel population in Puget Sound. The first method was based on boater registration records obtained from the Washington State Department of Licensing (DOL). Using data from the DOL, the maximum estimated number of recreational vessels in each of the Washington State counties bordering Puget Sound that might require access to pumpout facilities or services under NDZ regulations (i.e., boats larger than 21 feet) is 43,677. Vessels under 21 feet were not included in the estimate because they typically do not have an installed toilet. Because boater registration data may include a number of small, locally registered, commercial vessels such as fishing boats or tug boats, the total may be an overestimate.

The second method was based on the number of moorages and slips available to boaters, using Google Earth imagery captured during the summers of 2011 and 2012 to count vacant and occupied marina slips and moored vessels. Using this method, the State estimates a recreational vessel population of 23,555. The State believes that this also may be an overestimate, albeit less of an overestimate than the number calculated using the DOL boater registration data.

The State's petition also provided information about 173 pumpout units at 102 locations, and 21 mobile pumpout boats available for recreational vessels in Puget Sound. Both the location and availability of these pumpout facilities and services appear to approximately track the overall distribution of the recreational vessel population. The ongoing costs for recreational vessels to pumpout is minimal, with most pumpouts being free or \$5 per pumpout. The majority of pumped sewage is sent to wastewater treatment plants; however, some is sent to onsite septic tanks that meet federal requirements.

The most conservative estimate of the ratio of pumpout facilities to recreational vessels is 1:171 boats for each pumpout facility, not including the mobile services. Based on DOL vessel

registration data, there is a maximum of 43,677 recreation vessels in Puget Sound that could require access to pumpout facilities. As noted above, this is the State's most conservative (high) estimate. Using a 40 percent peak occupancy rate recommended by the Clean Vessel Act Technical Guidelines cited above, EPA has calculated that 17,471 of the 43,677 boats recreational vessels would require access to a pumpout facility during peak boating season. The State identified 102 recreational pumpout locations, which results in a ratio of 171 recreational vessels for each pumpout location, not including the mobile services. Applying the same 40% occupancy rate to the lower recreational vessel estimate of 23,555 obtained from the moorage count results in a ratio of 92 recreational vessels for each pumpout location, not including the mobile services.

Based on the number of available recreational pumpouts, which well exceeds the recommended minimum ratio of 1:600 using the most conservative estimates, EPA tentatively determines that adequate pumpout facilities for the safe and sanitary removal and treatment of sewage for recreational vessels are reasonably available for the waters of Puget Sound.

Puget Sound is also used by many different sizes and types of commercial vessels. The State used a study conducted by the Puget Sound Maritime Air Forum (Starcrest, 2007) to develop a reasonable estimate of commercial vessel use of Puget Sound. The study concluded that there were 2,937 entries of large oceangoing vessels into Puget Sound in 2005, and an estimated 678 other commercial vessels that operate mostly within Puget Sound (e.g., escort tugs) or have Puget Sound as their home port (e.g., the fleet of fishing vessels that travels to Alaska each year). According to the State, current vessel statistics are estimated to be similar to the data from 2005.

The large, oceangoing transient commercial vessels that are only in Puget Sound for a

short period of time (e.g., large cruise ships, freighters and tankers) have large enough holding tanks to hold their waste during the time they are in Puget Sound, with some exceptions. All Washington State Ferries (WSDOT ferries) and U.S. military vessels have holding tanks and use large-scale pumpout facilities where they are moored. Smaller commercial vessels, such as ferries, tugboats, excursion vessels, and fishing vessels with installed toilets can use the stationary pumpouts, mobile pumpout service vessels, some of the recreational pumpouts, or shore-based pumper trucks, described in more detail below.

The State identified eight stationary pumpouts dedicated to WSDOT ferries, three dedicated to U.S. Navy vessels, one dedicated to the Victoria Clipper vessels and one for the McNeil Island Department of Corrections vessels. The Port of Bellingham cruise terminal area also has three stationary pumpouts, one of which is used for Alaska Marine Highway vessels and two other pumpouts that can serve other commercial vessels. Although not included in this analysis, EPA notes that two more commercial pumpouts are being installed, one in Seattle for all commercial vessels and another at the Port of Bellingham mostly for fishing vessels. Estimated dates for completion are March and September 2017, respectively.

The State's supplemental information identified five companies that specialize in commercial marine work and that are capable of removing sewage from commercial vessel holding tanks. These five companies have a combined total of approximately 52 trucks (capacity ranging from 2,200 – 7,500 gallons each) and two mobile barges (capacity of 3,000 gallons each). These companies serve all of Puget Sound and can provide pumpout services at a variety of docks and ports for all types of commercial vessels, including tugs, fishing vessels, USCG vessels, smaller cruise ships, tankers, and other vessels.

The State's petition and supplemental information also identified 21-23 mobile pumpout

vessels. These mobile pumpouts primarily service recreational boats, but several have serviced commercial vessels such as charter boats, fishing vessels, U.S. Coast Guard vessels, and passenger vessels. The mobile pumpout boats have a capacity between 40 and 450 gallons and cover vast areas geographically as they are able to move to vessels, although some stay within their own marina or harbor area. In addition to the pumpouts described above, there are approximately 140 licensed or certified pumper truck companies in Puget Sound that primarily pump out septic tanks, but that can also pump out vessel sewage. The number of trucks in each company ranges from 1-13, and approximately half of these companies contacted by the State are currently, or are willing to, pump out commercial vessel sewage.

The State indicates that the number of commercial vessels that are likely to be in regular need of pumpout facilities with a NDZ would include the non-ocean going vessels that include tugboats, commercial fishing vessels, small passenger vessels, NOAA research and survey vessels, WSDOT Ferries, military and other government vessels, excursion and other commercial vessels. Given that the WSDOT Ferries, military vessels, and Victoria Clipper vessels all have dedicated stationary pumpouts, this leaves an approximate 600 vessels that would be in need of other pumpout facilities. With the two stationary commercial pumpouts, at least 52 Sound-wide commercial pumper trucks, and the two Sound-wide mobile commercial pumpout barges described above, this amounts to at least 56 pumpouts available for commercial vessels which results in an approximate ratio of 11:1. This estimated ratio may be conservative, given that a number of the mobile pumpout boats and pumper trucks described above may also provide commercial pumpout services. Based on this information, EPA tentatively determines that adequate pumpout facilities for the safe and sanitary removal and treatment of sewage for commercial vessels are reasonably available for the waters of Puget Sound.

TABLE OF FACILITIES

A list of pumpout facilities, phone numbers, locations, hours of operation, water depth and fees is provided at this link to the Washington Dept. of Ecology web site:

<http://www.ecy.wa.gov/programs/wq/nonpoint/CleanBoating/VesselPumpoutTables.pdf>

Based on the information above, EPA proposes to make an affirmative determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters of Puget Sound. A 30-day period for public comment has been opened on this matter, and EPA invites any comments relevant to this proposed determination. As noted above, EPA's authority under Clean Water Act section 312(f)(3) is to determine whether adequate pumpout facilities are reasonably available and EPA is therefore seeking comments on this determination only. If, after the public comment period ends, EPA makes a final affirmative determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters of Puget Sound, the State may, in accordance with CWA section 312(f)(3), completely prohibit the discharge from all vessels of any sewage, whether treated or not, into those waters.

Dated: October 27, 2016.

Dennis McLerran

Regional Administrator

Region 10

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